of any salary paid to an administrator in training. A request for prior approval must be received by the Department at least two (2) weeks prior to the desired effective date of the approval. Failure to. become an administrator within one year following completion of the examination to become a licensed administrator will result in the Department of Human Services recovering 100% of the amount allowed of the administrator in training. If the administrator in training discontinues the training program for any reason or fails to take the required examination to become a licensed administrator, 100% of the amount allowed to the ICF/MR nursing facility will be recovered.

4130 Cost to Related Organizations.

4131 Principle. Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable costs of the provider at the cost to the related organization. However, such costs must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

4132 Definitions

4132.1 Related to Provider. Related to the provider means that the provider to a significant extent is associated or affiliated with or has control of or is controlled by the organization furnishing the services, facilities, and supplies.

4132.2 Common Ownership. Common Ownership exists when an individual possesses significant ownership or equity in the provider and the institution or organization serving the provider.

4132.3 Control. Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

4140 Motor Vehicle Allowance. Cost of operation of a motor vehicle necessary to meet the facility needs is an allowable cost less the portion of usage of that vehicle that is considered personal.

4150 Insurance. Reasonable and necessary costs of insurance involved in operating a facility are considered allowable costs. Premiums paid on property not used for patient care are not allowed. Hospital insurance premiums on employees are an allowable cost if reasonable. Retirement plans and life insurance plans for employees are an allowable cost. Life insurance premiums related to insurance on the lives of officers and key employees where the provider is a direct or indirect beneficiary are not allowable costs. A provider is a direct beneficiary where, upon the death of the insured officer or key employee the insurance proceeds are payable directly to the provider. An example of a provider as an indirect beneficiary is the case where insurance on the lives of officers is required as part of a mortgage loan agreement entered into for a building program, and, upon the death of an insured officer the proceeds are payable to

the lending institution as a credit against the loan balance. In this case, the provider is not a direct beneficiary because it does not receive the proceeds directly, but is, nevertheless, an indirect beneficiary since its liability on the loan is reduced.

4160 Legal Fees. Legal fees to be allowable costs must be directly related to resident care. Fees paid to the attorneys for representation against the Department of Human Services are not allowable costs. Retainers paid to lawyers are not allowable costs. Legal fees paid for organizational expenses, or mortgage fees in the event of new construction, are to be amortized over a 60 month period.

4165 Costs Related to Union Activities. Legal fees or other costs incurred for activities directly related to influencing employees with respect to unionization or related to attempts to coerce employees or otherwise interfering with or restraining the exercise of employees rights under the NLRA (National Labor Relations Act) are not allowable costs for program purposes. Such costs are unallowable whether such activities are performed directly by the provider or through an independent contractor, consultant or outside attorney.

Costs incurred for activities directly related to expressing management's opinions for purposes of influencing employees not to organize and to form a union are not allowable costs.

Consultants and/or attorneys fees associated with collective bargaining activities in violation of the NLRA are not allowable costs.

After an election is held and the employees have elected to be represented by a union, then all contract negotiations and any procedures which form enforcement of contract terms which are necessary and reasonable are allowable costs. If the contract period is for a period of several years, the costs of collective bargaining will be amortized over the life of the contract.

Within sixty (60) days after the close of their operating year all health care facilities shall submit a written report noting all costs involved in any form of union activity to the Bureau of Medical Services, Department of Human Services, State House, Augusta, Maine 04333.

4170 Costs Attributable to Asset Sales. Costs attributable to the negotiation of settlement or a sale or purchase of any capital asset (by acquisition or merger) are not allowable costs. Included among such unallowable costs are: legal fees, accounting and administrative costs, appraisal fees, banking and broker fees, travel costs and the cost of feasibility studies.

5000 SPECIAL SERVICE ALLOWANCE

5010 Principle. A special service is to be distinguished from routine a service. Special services are of two types:

5010.1 One type of special service is that of an individual nature required in the case of a specific patient. This type of service is limited to professional services such as physical therapy,

occupational therapy, and speech and hearing services. Special services of this nature must be billed monthly to the Department as separate items required for the care of individual recipients.

5010.2 Other special services needed as a result of the resident's individual program plan are reimbursable as part of the allowable per diem cost only if prior approved by the Department of Human Services in consultation with the Bureau of Mental Retardation.

5010.3 Another type of special service is that rendered for the benefit of a group of residents in the facility rather than an individual recipient. This type of consultative service may be considered as part of the allowable per diem cost in accordance with the following description:

5011 Qualified Mental Retardation Professional. A qualified mental retardation professional is required for all ICF/MR facilities. If a Q.M.R.P. also performs functions which are related to the administration or management of the facility, the facility shall submit documentation to the Department of that portion of the Q.M.R.P'S time allocated to administration and policy planning functions and that portion of time allocated to Q.M.R.P. functions. The costs associated with administration and policy planning functions shall be included under the administrative and management ceiling.

5012 Pharmacist Consultants. Pharmacist consultants will be paid directly by the facility who will then be reimbursed through the per diem rate. In addition to the pharmacist consultant fees included in the base year rate, up to $2.50 per month per resident shall be allowed for drug regimen review.

5013 Dietary Consultants professionally qualified, may be employed by the facility or by the Department.

If employed by the Department, consultation services will be provided without any charge to the facilities.

5014 Physician Participation in the Professional Policy Committee ICF's

Physicians participating in the semi-annual review meetings of the Professional Policy Committee of an Intermediate Care Facility are an allowable cost up to a maximum of forty-four dollars ($44) per hour. The allowable cost shall be pro-rated on the number of Title XIX residents.

5015 Social Worker Consultant.

Social Worker Consultants may be provided by the Department, Bureau of Mental Retardation, or by the facility.

7000 PROSPECTIVE METHOD OF PAYMENT; INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

7010 Prospective Per Diem Rate

7011 Principle

Intermediate care facilities for the mentally retarded will be reimbursed for services provided to recipients under the program based on a rate which the department establishes on a prospective basis and determines is reasonable and adequate to meet the costs which must be incurred by an efficiently and economically operated facility in order to provide care and services in conformity with applicable State and Federal laws, regulations and quality and safety standards.

Facilities which incur variable costs during their fiscal year which exceed the amount paid through the prospective rate will be reimbursed no more than the amount allowed by the prospective rate.

7012 Definitions

7012.1 Fixed Costs include:

(a) depreciation on buildings, fixed and movable equipment and motor vehicles,

(b) depreciation on land improvements and amortization of leasehold improvements,

(c) real estate taxes,

(d) real estate insurance, including liability and fire insurances,

(e) interest on long term debt,

(f) return on equity capital for proprietary providers,

(g) rental expenses,

(h) amortization of finance costs for new construction and/or renovations,

(i) amortization of start-up costs,

(j) motor vehicle insurance,

(k) medical supplies which are supplied as part of the regular rate of reimbursement. These supplies are listed in the Maine Medical Assistance Manual at Chapter II, Section 50, Appendix 20. Excluded are costs which are an integral part of another cost center. Refer to Principle 7072.2 for calculation.

(l) facility's liability insurance, including malpractice cost. Refer to Principle 7072.2 for the calculation.

(m) mandated direct care staff training program costs as required by state and federal regulations.

(n) mandated A.C.C.D. accreditation costs.

(o) ICF-MR Health Care Provider Tax. Effective 10/1/02, ICFs-MR subject to the Health Care Provider Tax defined in state law 36 M.R.S.A., Chapter 373, will have the tax treated as an allowable fixed cost. Currently, the tax imposed is equal to 6% of its annual gross patient services revenue for the fiscal year.

7012.2 Variable Costs include all allowable costs which are not defined as fixed costs, staff wages, salaries or authorized staff benefits and which are incurred in the efficient and economical operation of the facility.

7012.21 Wages: Reasonable costs incurred for personnel wages will be reimbursed at actual cost.

A. Direct Care Staff:

1. Direct Care Staff employed by the facility: The reasonable allowable cost of wages for direct care personnel employed on site at the facility shall be determined based on the lesser of actual hours worked or hours approved by the Division of Licensing and Certification of the Department of Human Services.

   In addition, direct care staff hours related to mandatory programs, as specified in Principle 7912.1(m), above, will be considered allowable and will be reimbursed at the actual hourly wage for the relevant category of direct care staff.

2. Nursing Personnel employed by a third party and furnished on site at the facility on a contractual basis: The allowable cost of personnel employed by a third party and furnished to the facility on a contractual basis shall be limited by the facility's licensed bed capacity as specified in Table 1 on page 45B & C. The columns in Table 1 specify, respectively: column 1, the bed capacity of the facility; column 2, the

number of hours of contract labor that will be reimbursed at 100% of cost; and column 3, the number of additional hours of contract labor that will be reimbursed at 90% of cost (10% of column 2). Any additional hours of contract labor purchased by the facility, beyond those specified in columns 2 and 3, will be paid at the actual average hourly rate, to include fringe benefits but not to include wages paid to a nursing pool, which the facility pays its own staff in the relevant category of direct care staff (RN, LPN, CNA). Facilities of 19 beds or less are allowed 900 hours of contractual labor at 100% of cost. For larger facilities, the hours of contract labor reimbursed at 100% of cost are calculated cumulatively as follows:

20-30 Licensed Beds x 365 Days x 3.08 Hours Nursing Care x 4%

31-60 Licensed Beds x 365 Days x 3.08 Hours Nursing Care x 3%

61 - over Licensed Beds x 365 Days x 3.08 Hours Nursing Care x 2%

ALLOWED HOURS FOR CONTRACT LABOR

Beds	Hours (100%)	Hours (90%)	Beds	Hours (100%)	Hours (90%)
3	900	90	51	2,057	206
4	900	90	52	2,091	209
5	900	90	53	2,125	212
6	900	90	54	2,158	216
7	900	90	55	2,192	219
8	900	90	56	2,226	223
9	900	90	57	2,260	226
10	900	90	58	2,293	229
11	900	90	59	2,327	233
12	900	90	60	2,361	236
13	900	90	61	2,383	238
14	900	90	62	2,406	241
15	900	90	63	2,428	243
16	900	90	64	2,451	245
17	900	90	65	2,473	247
18	900	90	66	2,496	250
19	900	90	67	2,518	252
20	900	90	68	2,541	254
21	944	94	69	2,563	256
22	989	99	70	2,586	259
23	1,034	103	71	2,608	261
24	1,079	108	72	2,631	263
25	1,124	112	73	2,653	265
26	1,169	117	74	2,676	268
27	1,214	121	75	2,698	270
28	1,259	126	76	2,721	272
29	1,304	130	77	2,743	274
30	1,349	135	78	2,766	277
31	1,383	138	79	2,788	279
32	1,416	142	80	2,811	281
33	1,450	145	81	2,833	283
34	1,484	148	82	2,855	286
35	1,518	152	83	2,878	288
36	1,551	155	84	2,900	290
37	1,585	159	85	2,923	292
38	1,619	162	86	2,945	295
39	1,653	165	87	2,968	297
40	1,686	169	89	2,990	299
41	1,720	172	89	3,013	301
42	1,754	175	90	3,035	304
43	1,787	179	91	3,058	306
44	1,821	182	92	3,080	308
45	1,855	185	93	3,103	310
46	1,889	189	94	3,125	313
47	1,922	192	95	3,148	315
48	1,956	196	96	3,170	317
49	1,990	199	97	3,193	319
50	2,024	202	98	3,215	322

ALLOWED HOURS FOR CONTRACT LABOR (cont.)

Beds	Hours (100%)	Hours (90%)	Beds	Hours (100%)	Hours (90%)
99	3,238	324	150	4,384	438
100	3,260	326	151	4,407	441
101	3,283	328	152	4,429	443
102	3,305	331	153	4,452	445
103	3,328	333	154	4,474	447
104	3,350	335	155	4,497	450
105	3,373	337	156	4,519	452
106	3,395	340	157	4,452	454
107	3,418	342	158	4,564	456
108	3,440	344	159	4,587	459
109	3,463	346	160	4,609	461
110	3,485	349	161	4,632	463
111	3,508	351	162	4,654	465
112	3,530	353	163	4,677	468
113	3,552	355	164	4,699	470
114	3,575	357	165	4,722	472
115	3,597	360	166	4,744	474
116	3,620	362	167	4.767	477
117	3,642	364	168	4,789	479
118	3,665	366	169	4,812	481
119	3,687	369	170	4,834	483
120	3,710	371	171	4,857	486
121	3,732	373	172	4,879	488
122	3,755	375	173	4,902	490
123	3,777	378	174	4,924	492
124	3,800	380	175	4,946	495
125	3,822	382	176	4,969	497
126	3,845	384	177	4,991	499
127	3,867	387	178	5,014	501
128	3,890	389	179	5,036	504
129	3,912	391	180	5,059	506
130	3,935	393	181	5,081	508
131	3,957	396	182	5,104	510
132	3,980	398	183	5,126	513
133	4,002	400	184	5,149	515
134	4,025	402	185	5,171	517
135	4,047	405	186	5,194	519
136	4,070	407	187	5,216	522
137	4,092	409	188	5,239	524
138	4,115	411	189	5,261	526
139	4,137	414	190	5,284	528
140	4,160	416	191	5,306	531
141	4,182	418	192	5,329	533
142	4,205	420	193	5,351	535
143	4,227	423	194	5,374	537
144	4,249	425	195	5,396	540
145	4,272	427	196	5,419	542
146	4,294	429	197	5,441	544
147	4,317	432	198	5,464	546
148	4,339	434	199	5,486	549
149	4,362	436	200	5,509	551

The 3.08 nursing care hours per patient day used in developing the Table "Allowed Hours For Contract Labor," is based on average hours of nursing care as reported on the cost reports submitted for the period from November 1987 through October 1988.

B. Non-Direct Care Staff: The reasonable allowable cost of wages for non-direct care personnel employed on site at the facility shall be determined based on the actual hours worked during the facility's fiscal year ending in 1988 except for hours otherwise limited by the Regulations Governing the Licensing and Functioning of Intermediate Care Facilities for the Mentally Retarded.

7012.22 Fringe Benefits: The Department will reimburse the facility for its actual contribution to the reasonable and customary cost of the following designated types of fringe benefits if they are provided to the facility's personnel:

A. Designated Benefits:

1. health insurance
2. dental insurance
3. term life insurance
4. worker's compensation
5. holiday leave
6. sick leave
7. unemployment compensation
8. Federal Insurance Contribution Act (FICA)
9. vacation

B. Pay in Lieu of Benefits (PIB): PIB is an allowable cost for those benefits unrelated to wage driven benefits such as FICA and Worker's Compensation. In order to receive pay in lieu of health insurance the staff member must demonstrate to the facility that he/she is covered for comprehensive medical care under an alternative program or policy. This benefit shall be reimbursable for personnel who are employed

at the facility at least 24 hours per week. PIB shall be reported as a fringe benefit on the appropriate cost reporting form.

For facilities who have hired per diem nursing staff prior to April 1, 1989, those per diem nursing staff members will be exempt from the 24 hour per week requirement as stated in this Principle. Documentation must be made available at the time of Audit.

C. Costs incurred for fringe benefits other than those designated in A or B above, if they are determined to be reasonable, may be reimbursed only as a part of the variable cost component.

7012.3 "Other" Costs include the cost of Developmental Training Programs as specified in Section 4170. "Other" costs will be reimbursed in the same manner as fixed costs.

7012.4 Days of Care means total number of actual days of care provided whether or not payment is received and the number of any other days for which payment is made. (Note: Bed held days and discharge days are included only if payment is received for these days.)

7012.5 Base Year means the fiscal year immediately prior to a facility's first year on the prospective reimbursement system.

7012.6 Per Diem Rate means total allowable costs divided by days of care. The prospective per diem rate, as described in the following section, multiplied by days of care for Medicaid recipients, will determine reimbursement.

7020 Implementation

Changes made as a result of the amendments to the Principles of Reimbursement of November 8, 1989 are intended to apply to reimbursement from April 1, 1989, onward. A facility may request an adjustment to its interim prospective rate, not to exceed actual costs of employee wages, salaries and benefits for a current 12 month period. Facilities may refer to P.L. 869, An Act Concerning Intermediate Care Facilities for the Mentally Retarded, as well as the recommendations of the Advisory Committee on Staff Retention for guideline for establishing the appropriate wage scale for Residential Assistants, Developmental Training Assistants, Developmental Trainer, Developmental Training Coordinator and the Q.M.R.P. positions. In order to receive an adjustment to the interim prospective rate a facility must submit documentation of actual cost adjusting for the changes described in these rules. Upon final audit of a facility's cost report that covers the period beginning April 1, 1989, the Department will determine actual allowable costs and will determine the final settlement based on the difference between the actual allowable costs, pursuant to Section 7030 and the amount paid under the interim rates.